

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Civil No. 11-cv-13187

Plaintiff,

vs.

Honorable Mark A. Goldsmith
Magistrate Judge Mark A. Randon

THIRTY SEVEN THOUSAND
DOLLARS (\$37,000.00)
IN UNITED STATES CURRENCY,

Defendant *In Rem*.

**STIPULATED CONSENT JUDGMENT AND
FINAL ORDER OF FORFEITURE**

NOW COMES the Plaintiff, the UNITED STATES OF AMERICA (hereinafter the “United States”), by and through its counsel, BARBARA L. McQUADE, United States Attorney, and GJON JUNCAJ, Assistant United States Attorney, and Claimants, DAVID ZHAO a/k/a ZHAO YUE, JENNIFER GAO a/k/a GAO XIUYING, and BRIAN JIANG a/k/a JIANG TAO, individually, and by and through their attorney, JORIN G. RUBIN, who enter into this Stipulation for entry of a Consent Judgment and Final Order of Forfeiture as evidenced by their signatures below, under the terms and conditions hereinafter set forth:

WHEREAS, on or about March 13, 2011, Thirty Seven Thousand Dollars (\$37,000) in United States Currency (the “defendant currency”) was seized by agents of the United States Department of Homeland Security, Customs and Border Protection (“CBP”) at the Detroit Metropolitan Airport in Romulus, Wayne County, Michigan;

WHEREAS, administrative claims contesting the forfeiture were filed with the CBP by claimants JENNIFER GAO, BRIAN JIANG and DAVID ZHAO, and thereafter, the matter was

referred to the United States Attorney's Office for judicial forfeiture;

WHEREAS, a Complaint for Forfeiture in this matter was filed on or about July 22, 2011, by the United States alleging that the defendant currency was subject to forfeiture pursuant to 31 U.S.C. § 5317(c)(2);

WHEREAS, notice by publication has been completed in this case;

WHEREAS, Claimants DAVID ZHAO, JENNIFER GAO, and BRIAN JIANG filed their Verified Claims on September 9, 2011.

WHEREAS, no other verified claims of interest have been filed by any party with the United States District Court in this judicial action, and the time for filing such pleadings has expired;

WHEREAS, Claimants BRIAN JIANG and DAVID ZHAO agree to withdraw their respective claims filed in this matter;

WHEREAS, the parties are aware of their respective rights in this matter and wish to resolve this matter without further litigation and expense;

NOW, THEREFORE, the parties hereby stipulate and agree as follows:

1. This is an in rem civil forfeiture action brought pursuant to 31 U.S.C. § 5317(c)(2).
2. The Court has jurisdiction and venue over this matter pursuant to 28 U.S.C. §§ 1345, 1355, 1391 and 1395.
3. The allegations of the Complaint for Forfeiture are well taken, the United States and its agents had reasonable cause for the seizure of the defendant currency as provided in 28 U.S.C. § 2465, the position of the United States in this action is and has been substantially

justified as set forth in 28 U.S.C. § 2412 , and JENNIFER GAO, BRIAN JIANG and DAVID ZHAO shall not claim or seek attorney fees from the United States under the Civil Asset Forfeiture Reform Act, the Equal Access to Justice Act, or any other act, statute or regulation.

4. The parties agree that \$7,000.00 of the \$37,000.00 defendant currency shall **BE FORFEITED** to the United States of America pursuant to 31 U.S.C. § 5317(c)(2). Further, any right, title or interest of claimants JENNIFER GAO, BRIAN JIANG and DAVID ZHAO, their successors and assigns, and any right, title and ownership interest of all other persons in \$7,000.00 of the \$37,000.00 defendant currency, plus any interest accrued on the defendant currency since the date of seizure, is hereby and forever **EXTINGUISHED**, and that clear title to the \$7,000.00 of the \$37,000 defendant currency, plus any interest accrued on the defendant currency since the date of seizure thereon, shall hereby be **VESTED** in the United States of America, and CBP, or its delegate, is **AUTHORIZED** to dispose of the \$7,000.00 of the \$37,000.00 defendant currency, plus any interest accrued on the defendant currency since the date of seizure, according to law.

5. Claimants JENNIFER GAO, BRIAN JIANG and DAVID ZHAO hereby withdraw their claims to \$7,000.00 of the defendant currency plus any interest accrued on the \$37,000.00 defendant currency since the date of seizure.

6. The parties agree that upon entry of this Stipulated Consent Judgment and Final Order of Forfeiture, or as soon thereafter as practicable, the remaining \$30,000.00 of the \$37,000.00 defendant currency shall **NOT BE FORFEITED**, but shall be **RETURNED** to claimant JENNIFER GAO. The parties agree that following the entry of this Stipulated Consent Judgment and Final Order of Forfeiture, the Department of Homeland Security for the Eastern

District of Michigan or its delegate shall disburse the funds (\$30,000.00) through the Electronic Payment System, after the Claimant's attorney, JORIN G. RUBIN, has supplied the Automated Clearing House ("ACH") information to the U.S. Department of Homeland Security for electronic fund transfer.

7. Upon signing below, Claimants JENNIFER GAO, BRIAN JIANG and DAVID ZHAO release, remise and forever discharge the plaintiff, United States of America, and its agents, officers, employees, past and present, and all other persons, including but not limited to the CBP, any individual local law enforcement officers or departments or agencies, and any other persons who participated in or assisted in any aspect of this forfeiture action and underlying investigation, from any and all claims or causes of action which claimants, and their agents, officers, employees, past and present, and which claimants and their assigns, agents, officers, employees and successors in interest hereafter can, shall or may have for, or on account of, the incidents or circumstances giving rise to the above-captioned action.

8. Claimants JENNIFER GAO, BRIAN JIANG and DAVID ZHAO have discussed this settlement with their counsel and are aware of their rights in this matter. Claimants JENNIFER GAO, BRIAN JIANG, DAVID ZHAO, hereby agree to waive any attorney representation conflicts pertaining to this forfeiture matter, including its resolution, and are allowing Attorney JORIN G. RUBIN to represent them. Claimants JENNIFER GAO, BRIAN JIANG, DAVID ZHAO warrant that Attorney RUBIN has discussed the issue regarding conflicts with them, that no conflicts exist, and that any conflicts are hereby waived if they do exist.

9. The parties agree that each party shall bear its own costs and attorneys fees in

this matter.

10. Upon entry of the accompanying Consent Judgment and Final Order of Forfeiture below this case shall be **DISMISSED WITH PREJUDICE** and closed.

WHEREFORE, the parties stipulate to entry of this Stipulated Consent Judgment and Final Order of Forfeiture.

CONSENT JUDGMENT AND FINAL ORDER OF FORFEITURE

IT IS SO ORDERED.

Dated: January 27, 2012
Flint, Michigan

s/Mark A. Goldsmith
MARK A. GOLDSMITH
United States District Judge

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on January 27, 2012.

s/Deborah J. Goltz
DEBORAH J. GOLTZ
Case Manager

APPROVED AS TO SUBSTANCE AND FORM:

s/Gjon Juncaj
GJON JUNCAJ (P-63256)
Assistant United States Attorney
211 W. Fort Street, Suite 2001
Detroit, Michigan 48226
(313) 226-9623
gjon.juncaj@usdoj.gov

Dated: January 18, 2012

s/Jorin G. Rubin
JORIN G. RUBIN (P-60867)
Attorney for Claimants
26711 Northwestern Highway, Suite 200
Southfield, Michigan 48034
(248) 799-9100
jorinrubin@comcast.net

Dated: January 9, 2012

s/Jennifer Gao, pls. see attached signature pg.
JENNIFER GAO, Claimant

Dated: January 9, 2012

s/Brian Jiang, pls. see attached signature pg.
BRIAN JIANG, Claimant

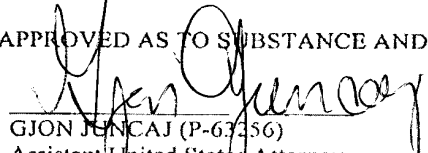
Dated: January 9, 2012

s/David Zhao, pls. see attached signature pg.
DAVID ZHAO, Claimant


Dated: January 9, 2012

WHEREFORE, the parties stipulate to entry of this Stipulated Consent Judgment and Final Order of Forfeiture.

APPROVED AS TO SUBSTANCE AND FORM:


GJON JUNC AJ (P-63256)
Assistant United States Attorney
211 W. Fort Street, Suite 2001
Detroit, Michigan 48226
(313) 226-9623
gjon.juncaj@usdoj.gov

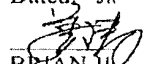
Dated: January 18, 2012


JORIN G. RUBIN (P-60867)
Attorney for Claimants
26711 North Western Highway, Suite 200
Southfield, Michigan 48034
(248) 799-0000
jorinrubin@comcast.net

Dated: January 09, 2012


JENNIFER [redacted] AO, Claimant

Dated: January 09, 2012


BRIAN [redacted] AO, Claimant

Dated: January 09, 2012


DAVID Z. [redacted] AO, Claimant

Dated: January 09, 2012

CONSENT JUDGMENT AND FINAL ORDER OF FORFEITURE

IT IS SO ORDERED.

Dated: _____

HONORABLE _____
United States District Court Judge